

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

First Regular Session

Sixty-first General Assembly

LLS NO. 970663.01D MKD HOUSE BILL 971243

STATE OF COLORADO

BY REPRESENTATIVE Schauer;

also SENATOR Schroeder.

REREVISED

BUSINESS AFFAIRS & LABOR

A BILL FOR AN ACT

CONCERNING THE ELIMINATION OF RESTRICTIONS ON RATES CHARGED FOR CERTAIN TRANSACTIONS GOVERNED BY THE CONSUMER CREDIT CODE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

On and after July 1, 1997, allows:

- The credit service charge for consumer credit sales other than revolving charge accounts to be set at any rate contracted for and agreed to by the parties to such sale;
- The credit service charge for revolving charge accounts to be set at any rate contracted for and agreed to by the parties;
- The loan finance charge for supervised loans, other than loans pursuant to revolving loan accounts to be set at any rate contracted for and agreed to by the parties to such loan;
- The loan finance charge for a supervised loan pursuant to a revolving loan account to be set at any rate contracted for and agreed to

by the parties, as applied to the unpaid balance of the principal;

- A lender for a revolving loan account secured by an interest in land, under certain conditions, to contract for and receive finance charges to open, use, or maintain such account, as a fixed amount, as a percentage of the credit limit, or on any other basis contracted for and agreed to by the parties in addition to finance charges at a periodic rate or rates.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 52201, Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

52201. Credit service charge for consumer credit sales other than revolving charge accounts. (2.5) (a) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, ON AND AFTER JULY 1, 1997, THE CREDIT SERVICE CHARGE, CALCULATED ACCORDING TO THE ACTUARIAL METHOD, MAY BE THE EQUIVALENT OF ANY RATE CONTRACTED FOR AND AGREED TO BY THE PARTIES TO A CONSUMER CREDIT SALE SUBJECT TO THE LIMITATIONS OF 512103, C.R.S.

(b) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 2. 52207, Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

52207. Credit service charge for revolving charge accounts. (6) (a) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, ON AND AFTER JULY 1, 1997, THE CHARGE THAT MAY BE MADE IN EACH BILLING CYCLE MAY BE THE EQUIVALENT OF ANY RATE CONTRACTED FOR AND AGREED TO BY THE PARTIES APPLIED TO THE AMOUNT DETERMINED PURSUANT TO SUBSECTION (2) OF THIS SECTION SUBJECT TO THE LIMITATIONS OF 512103, C.R.S.

(b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 3. 53508, Colorado Revised Statutes, 1992 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

53508. Loan finance charge for supervised loans. (2.5) (a) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, ON AND AFTER JULY 1, 1997, THE LOAN FINANCE CHARGE, CALCULATED ACCORDING TO THE ACTUARIAL METHOD, MAY BE THE EQUIVALENT OF ANY RATE CONTRACTED FOR AND AGREED TO BY THE PARTIES TO A SUPERVISED CONSUMER LOAN, OTHER THAN A LOAN PURSUANT TO A REVOLVING LOAN ACCOUNT SUBJECT TO THE LIMITATIONS OF 512103, C.R.S.

(b) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JULY 1, 2002.

(3.5) (a) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, ON AND AFTER JULY 1, 1997, THE LOAN FINANCE

CHARGE FOR A LOAN PURSUANT TO A REVOLVING LOAN ACCOUNT, CALCULATED ACCORDING TO AN ACTUARIAL METHOD, MAY BE THE EQUIVALENT OF ANY RATE CONTRACTED FOR AND AGREED TO BY THE PARTIES APPLIED TO THE UNPAID BALANCE OF THE PRINCIPAL SUBJECT TO THE LIMITATIONS OF 512103, C.R.S.

(b) THIS SUBSECTION (3.5) IS REPEALED, EFFECTIVE JULY 1, 2002.

(3.6) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON AND AFTER JULY 1, 1997, FOR A REVOLVING LOAN ACCOUNT SECURED BY AN INTEREST IN LAND FOR WHICH THE LIMIT IN THE AMOUNT OF CREDIT MADE AVAILABLE TO THE DEBTOR IS THE PRINCIPAL UNDER SECTION 53510 (2), A LENDER MAY CONTRACT FOR AND RECEIVE FINANCE CHARGES TO OPEN THE REVOLVING LOAN ACCOUNT, AS A FIXED AMOUNT, AS A PERCENTAGE OF THE CREDIT LIMIT, OR ON ANY OTHER BASIS CONTRACTED FOR AND AGREED TO BY THE PARTIES, IN ADDITION TO FINANCE CHARGES AT A PERIODIC RATE OR RATES. FINANCE CHARGES TO OPEN A REVOLVING LOAN ACCOUNT SHALL NOT BE SUBJECT TO THE RATE LIMITATIONS SET FORTH IN SUBSECTION (3) OR (3.5) OF THIS SECTION BUT SHALL BE IN ADDITION TO SUCH RATE LIMITATIONS.

(b) THIS SUBSECTION (3.6) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 4. 512103 (1) and (2), Colorado Revised Statutes, 1992 Repl. Vol., are amended to read:

512103. Greater rate may be stipulated. (1) The parties to any bond, bill, promissory note, or other instrument of writing may stipulate therein for the payment of a greater or higher rate of interest than eight percent per annum, but not exceeding fortyfive percent per annum, and any such stipulation may be enforced in any court of competent jurisdiction in the state ~~except as otherwise provided in articles 1 to 6 of this title~~. The rate of interest shall be deemed to be excessive of the limit under this section only if it could have been determined at the time of the stipulation by mathematical computation that such rate would exceed an annual rate of fortyfive percent when the rate of interest was calculated on the unpaid balances of the debt on the assumption that the debt is to be paid according to its terms and will not be paid before the end of the agreed term.

(2) (a) The term AInterest@ as used in this section means the sum of all charges payable directly or indirectly by a debtor and imposed directly or indirectly by a lender as an incident to or as a condition of the extension of credit to the debtor, whether paid or payable by the debtor, the lender, or any other person on behalf of the debtor to the lender or to a third party, INCLUDING ANY OF THE FOLLOWING TYPES OF CHARGES WHICH ARE APPLICABLE:

(I) INTEREST OR ANY AMOUNT PAYABLE UNDER A POINT, DISCOUNT, OR OTHER SYSTEM OF CHARGES, HOWEVER DENOMINATED;

(II) PREMIUM OR OTHER CHARGE FOR ANY GUARANTEE OF INSURANCE PROTECTING THE LENDER AGAINST THE DEBTOR'S DEFAULT OR OTHER CREDIT LOSS;

(III) CHARGES INCURRED FOR INVESTIGATING THE COLLATERAL OR CREDIT WORTHINESS OF THE DEBT OR FOR COMMISSIONS OR BROKERAGE FOR OBTAINING THE CREDIT.

(b) FOR PURPOSES OF THIS SECTION, AINTEREST@ DOES NOT INCLUDE ADDITIONAL CHARGES AS DEFINED IN SECTION 52202 OR 53202, DELINQUENCY CHARGES AS DEFINED IN SECTION 52203 OR 53203, DEFERRAL CHARGES AS DEFINED IN SECTION 52204 OR 53204, SIMILAR CHARGES SPECIFICALLY AUTHORIZED BY LAW, OR ADDITIONAL INTEREST CHARGES PERMITTED BY SECTION 512107 (3).

(c) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT, RESTRICT, OR PROHIBIT THE ASSESSMENT OF FINANCE CHARGES PERMITTED UNDER SECTION 53508 (3.6) OR ANY OTHER CHARGES OR FEES AUTHORIZED IN ARTICLES 1 TO 6 OF THIS TITLE.

(d) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 5. Effective date. This act shall take effect on July 1, 1997, except that, if a referendum petition is filed against this act or an item, section, or part of this act within the ninetyday period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.